

Appeal Decision

Site visit made on 24 November 2016

by George Mapson DipTP DipLD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 January 2017

Appeal Ref: APP/T5150/C/16/3150001
330 Neasden Lane, London, NW10 0AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Bimal Shah (BSIP Foods Limited) against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/15/0310.
 - The notice was issued on 29 March 2016.
 - The breach of planning control as alleged in the notice is *"Without planning permission, the erection of a single storey rear extension to the rear of the premises, located behind no. 330 and extending across the rear of nos. 332-336 Neasden Lane (as shown in the approximate location on the attached plan)"*.
 - The requirements of the notice are *"Step 1 Demolish the unauthorised development. Step 2 Remove all debris and items arising from that demolition and remove all materials associated with the unauthorised development from the premises"*.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

The appeal site and surroundings

2. No. 330 Neasden Lane has been combined with the adjoining units, Nos. 332-336 and the ground floor is now used as a food store/supermarket. Formerly, it was used as a public house. These units are located within a 3-storey terraced block that forms part of a parade of retail and commercial uses facing Neasden Lane. The upper floors in this block are in residential use.
3. Behind this parade is a narrow road that provides access to service yards at the rear of the buildings and to the upper floor flats. The road is also used for parking.
4. Some of the nearby yards have been built over. These developments include a 2-storey extension behind No. 336 and a single-storey extension behind No. 334. No information is provided regarding their history or planning status.

The appeal development

5. On the land behind No. 330, and part of the land behind No. 332, a single-storey flat-roofed extension has been erected. It has an internal floor area of about 35sqm and stretches to the edge of the service road. It is used as an additional store room for the food store/supermarket.
6. The walls are assembled from insulated metal panels with a pale grey finish and the roof appears to be formed from profile metal sheets. A roller shuttered entrance door gives direct access to the service road. To one side of this door is a cluster of 14 metal letter boxes that are used by the occupants of the upper floor flats.

Planning history

7. The parties have drawn attention to 2 planning applications that were made during the time that the ground floor use of Nos. 330-336 was a public house.
8. In February 2008, planning permission¹ was refused for the erection of a single-storey rear extension and beer garden at the rear. The Council and the Highway Authority considered that the proposal was unacceptable, in part because it would have resulted in a significant reduction of the servicing area and parking facilities for the public house. In October 2008 an appeal² against the refusal of planning permission was dismissed.
9. The appellant has referred to an earlier planning application (Ref. 90/1384) for the proposed erection of a single-storey rear extension and construction of a basement cellar at the public house. Planning permission for that development was granted on 19 December 1990, but the appellant says that the Council's website does not show any plans or drawings for that scheme.
10. The Council's statement of case makes no reference to this proposal, so whether or not it was implemented is unclear. However, the plans of the appeal development show a basement below the unauthorised extension and I saw a flight of steps that leads to it.

The appeal on ground (a)

Planning policy³

11. No special policies, controls or designations apply to the appeal property or the surrounding area. The Council has cited a number of general development plan policies as relevant to this appeal. These include UDP⁴ policies SH19 (*Rear servicing*), BE2 (*Townscape: Local context & character*) and BE9 (*Architectural quality*). I refer to these policies in my consideration of the main issues.

Main issues

12. The main issues are the effects of the unauthorised extension firstly, on access and servicing arrangements, and the implications for the convenience and safety of road users; and secondly, on the character and appearance of the original building and its surroundings.

Issue 1 - Access and servicing arrangements

13. UDP policy SH19 states that the Council will use its powers to retain facilities for rear servicing by vehicles of retail and service outlets. Paragraph 8.9.1 of the supporting

¹ Council Ref. 07/3090

² Planning Inspectorate Ref. APP/T5150/A/08/2075667

³ The National Planning Policy Framework maintains the statutory status of the development plan as the starting point for decision making. It states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts with it should be refused unless other material considerations indicate otherwise.

⁴ UDP: The London Borough of Brent Unitary Development Plan (adopted 2004)

text explains that in order to achieve the Council's objective of maintaining and enhancing the vitality and viability of established town centres, there is a need to regenerate them by securing major development. In addition, other measures will be taken to make the centres more attractive to shoppers and businesses, including those that would alleviate traffic congestion, reduce vehicle/pedestrian conflict and improve rear servicing and car parking facilities and public transport accessibility.

14. Policy SH19 was relevant in 2008 when the previous proposal was under consideration and the potential loss of on-site parking and servicing arrangements was at issue. In determining the 2008 planning appeal, the Inspector concluded that the proposed development would leave no space to park a service vehicle within the site. Those vehicles would therefore have to park within the narrow service road. The road serves a number of nearby houses and commercial premises and any obstruction caused by service vehicles would be inconvenient and potentially hazardous to pedestrians and drivers using it. For these reasons, the proposal would conflict with the objectives of UDP policy SH19.
15. The unauthorised extension that has now been erected has given rise to the same planning consequences that the Council, the Highway Authority and the previous Inspector had anticipated in 2008. It has deprived the appeal property of an on-site parking and servicing space at the rear of the building and thus poses a risk to the convenience and safety of users of the service road. It therefore fails to accord with the objectives of UDP policy SH19.
16. The appellant has failed to present a cogent argument for setting aside the safety implications of the development. He asserts that the unauthorised extension is compliant with policy SH19 but has given no reasons to support this view. He has simply referred to the fact that there are many examples of rear infill extensions in the immediate surroundings and that the development of this site maintains the symmetry of the rear boundaries and avoids the formation of a small alcove area that could become a dumping place.
17. This argument does not tackle the crux of the issue, but I shall address it nevertheless. It is frequently argued that development which is contrary to policy should be permitted because it would improve the appearance of untidy or unsightly land. This line of reasoning is seldom persuasive. Although each case is treated on its merits, it is necessary to consider the precedent that would be set if development were to be permitted for this reason.
18. Firstly, it would encourage others to allow their land to become untidy and unsightly in the hope of obtaining planning permission for development. Secondly, it would make it difficult for the Council to determine such applications, as it ought, on land-use grounds and would undermine its ability to make rational and consistent decisions against the background of local and national planning policies. I find that this argument carries little, if any weight, as a material consideration in this appeal.

Issue 2 - Character and appearance

19. The UDP sets out a broad appraisal of Brent's urban character. It acknowledges that the borough does not possess a uniform character and much of it lacks the higher environmental quality of neighbouring boroughs. But there is widespread recognition of an urgent need for substantial improvements in the quality of the urban environment.
20. A poor quality environment acts as a serious disincentive to commercial investment. A high quality environment is essential for attracting high quality investment. For this reason, the UDP identifies a need to focus more attention on raising the quality of urban and building design, in order to secure the long-term environmental and economic regeneration of Brent. As development is an incremental process, higher standards will need to be applied to all proposals for development within the borough.

21. UDP policies BE2 and BE9 point the way to achieving these objectives. BE2 states that proposals should be designed with regard to their local context and should make a positive contribution to the character of the area.
22. Policy BE9 states that extensions and alterations to existing buildings should, among other things, be of a scale, massing and height that are appropriate to their setting. They should respect the positive local design of adjoining development and relate satisfactorily to it. They should use materials of high quality and durability that are of compatible or complementary colour and texture to the surrounding area.
23. The character of this part of Neasden Lane is fairly vibrant, but the street scene to the rear, along the service road, is that of an ailing, rather run-down and neglected thoroughfare.
24. In areas such as this one, it is essential that new development draws upon the positive characteristics of its surroundings, rather than the negative ones. Consequently, the other nearby extensions to which the appellant has referred, some of which are particularly bulky, ill-designed or unsightly, do not provide a strong reason for permitting further poor quality development.
25. The unauthorised extension draws none of its references from the host building or the surrounding area. The use of grey cladding panels is incongruous and out of keeping with the predominantly red brick buildings hereabouts and is discordant in the street scene. The materials used are neither high quality, nor particularly durable – judging by the damage and dents that are already evident on the panels and edges.
26. The extension is prominent and intrusive. It harms the character and appearance of the host building and detracts from its surroundings. As such, it conflicts with the objectives of UDP policies BE2 and BE9. No conditions would overcome the harm that it has caused.

Overall conclusions

27. I have taken account of my observations at the site and in the surrounding area, and of all the matters raised in the written representations. I appreciate that the unauthorised extension provides added storage space for the supermarket which benefits the appellant's business, but these benefits do not outweigh the harm that the development has caused.
28. For the reasons given above I conclude that the appeal should not succeed and I shall uphold the enforcement notice. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

George Mapson

INSPECTOR